

DISTRICT COURT OF GUAM
TERRITORY OF GUAM

HAROLD CURTIS BIDDIE,

“Movant”

vs.

**SECRETARY OF TREASURY, For the
Country or District of Guam & Bond
Code Number # 422866047, U. S.
Courthouse 4th Floor, 520 West
Soledad Avenue , Hagatna, Guam 96910.**

CIVIL CASE NO. 18-00025

REPORT AND RECOMMENDATION

The court has reviewed movant’s “Writ of Nunc Pro Tunc with Equitable Marimi” and his Application to Proceed herein without Prepaying Fees and Costs (*In Forma Pauperis*).

It appears from movant’s petition that this court has no jurisdiction over his petition. Moreover, movant’s petition appears unintelligible. He alleges that he is the sole and unconditional owner of a particular bond, number 422866047, which matured on his birthday on February 20, 1997 which has gained interest since then. Movant alleges entitlement to the said bond and seeks to gain control of the bond allegedly more than 21 years after it matured.

Movant appears to be a state inmate who is currently incarcerated in one of Texas’ prison facilities, having been convicted of aggravated sexual assault in 1988 and sentenced to imprisonment for 99 years. See Memorandum Opinion in *Biddie v. the State of Texas*, No. 07-15-0899-CR, in the Court of Appeals Seventh District of Texas at Amarillo, dated November 18, 2015.

In his writ application, movant alleges that this court has jurisdiction pursuant 28 U.S.C.

1 § 1651(a) and Vernon's Texas Codes Annotated, Civil Procedure Rule 45. The referenced
2 statute, however, is not a jurisdiction conferring statute. 28 U.S.C. § 1651(a) merely authorizes
3 any court authorized by congress to "issue all writs necessary or appropriate in the aid of their
4 respective jurisdictions and agreeable to the usage and principles of law." This court must have
5 jurisdiction over movant's petition before it could issue an appropriate writ. The court does not
6 acquire jurisdiction merely because movant seeks the issuance of a writ. It must have a separate
7 basis for acquiring jurisdiction. Movant has failed to allege a jurisdictional basis for this court
8 to entertain his writ.

9 As an additional basis for jurisdiction, the court notes that movant references Vernon's
10 Texas Codes Annotated and particularly Texas Civil Procedure Rule 45. The said rule governs
11 pleadings that are filed in Texas courts and requires among other things that a petition shall
12 "consist of a statement in plain and concise language of the plaintiff's cause of action."

13 Movant's references to Texas law also brings up additional jurisdiction problems which
14 movant faces. It is clear from the writ petition that movant is not a resident of Guam and has no
15 ties to this district. Furthermore, it is not alleged that the bond's location or the Secretary of the
16 Treasury's location is within this district. Thus, in addition to the lack of jurisdiction, venue in
17 this district if the court had jurisdiction would also be inappropriate and subject to dismissal.

18 Furthermore, movant's petition does not appear to state a cognizable claim for relief.

19 In filing his writ, movant seeks in forma pauperis status. As an inmate he appears to
20 meet such a status. However, the court finds it prudent to deny his request since this court has
21 no jurisdiction over his writ petition. If the court did have such jurisdiction, venue would be
22 inappropriate in this district. In addition, movant has failed to submit a certified copy of his
23 inmate trust account statement for the six month period immediately preceding the filing of his
24 petition. See 28 U.S.C. § 1915(a)(2).

25 **RECOMMENDATION**

26 IT THEREFORE IS RECOMMENDED that the District Court issue an order denying
27 Plaintiff's application to proceed without payment of fees and further dismissing movant's
28 petition for a "Writ of Nunc Pro Tunc with Equitable Marimi" for the following reasons:

1 1. That movant has failed to allege a proper ground for this court to exercise its limited
2 jurisdiction.

3 2. That 28 U.S.C. § 1651(a), which movant cites as the basis for this court's jurisdiction
4 of his petition, merely authorizes this court to issue all writs necessary or appropriate in the aid
5 of its jurisdiction. The court must have a separate basis for exercising jurisdiction other than the
6 referenced statute.

7 3. That movant's petition does not appear to state a cognizable claim upon which relief
8 may be granted.

9 4. That the venue in which movant has brought his petition is improper. Movant does
10 not reside in the district of Guam. He resides in the state of Texas. Further, he does not allege
11 that the bond he seeks to gain control of is located in Guam or that the Secretary of Treasury he
12 mentions is also located in Guam.



13
14 /s/ Joaquin V.E. Manibusan, Jr.
15 U.S. Magistrate Judge
16 Dated: Jul 12, 2018

17 **NOTICE**

18 **Failure to file written objections to this Report and Recommendation within**
19 **fourteen (14) days from the date of its service shall bar an aggrieved party from attacking**
20 **such Report and Recommendation before the assigned United States District Judge. 28**
21 **U.S.C. § 636(b)(1)(B).**
22
23
24
25
26
27
28